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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,669	09/17/2003	Stacey E. Fenley	FENL-001	4105

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Michael S. Neustel  
Suite No. 4  
2534 South University Drive  
Fargo, ND 58103

EXAMINER
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FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/664,669

Applicant(s)

FENLEY, STACEY E.

Examiner

Jimmy G. Foster

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/17/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3728

1) Claim 20 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01 April 2005.

2) Claim 19 is allowable.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4) Claims 1, 3 and 4 are rejected under 35 U.S.C. § 102(e) as being anticipated by Platte, III (6,672,439). In the reference of Platte, III, there are provided a rectangular box-like outer housing 10, an opening to the outer housing (defined by the top of the walls 12,14,22,24), a pivotally attached cover member 52 for selectively closing the opening of the housing,

Art Unit: 3728

and a plurality of inner compartments/pockets 50 within the outer housing which are removably positioned therein.

The cover member includes a rectangular upper member (which will lie across the housing opening (see Fig. 1, for example), a pivotally attached front member/flap at 54, a pivotally attached first side member/flap 60, and a pivotally attached second side member 62. The cover member front and side members include closure fasteners (56,58) thereon which selectively attach to closure fasteners (56,58) on the front wall 12 of the outer housing.

The inner compartments of Platte, III are capable of holding school documents which would have a size to be received therein. Moreover, the reference discloses holding elements of a "scrap booking", such as school reports/documents (see col. 1, lines 20-23).

5) Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Shipman (215,248). In the reference of Shipman, there are provided an outer housing A, an opening to the outer housing which is shown in Fig. 2, a cover member a, and a plurality of inner compartments BC. Although the compartments are intended for storing bills, they are inherently capable of storing school reports/documents which would have a size small enough to be received therein - which meets Applicant's *intended* use recitation regarding school documents.

6) Claims 1, 3 and 5-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Colloton (2003/0116461). In the reference of Colloton, there are provided a rectangular box-like outer housing 10, opposite-side handles at 13, a pivotally attached cover member at 12, an upper opening which is selectively closed by the cover member (see Figs. 1 and 2), and a plurality

Art Unit: 3728

of removable inner compartments at insert folders 40 or at inner pockets 50. The inner compartments are capable of storing school documents which would have a size to be received in the inner compartments. Moreover, the reference discloses this intended use (see paragraph [0006]).

As shown in Figures 1 and 2, the cover member includes a rectangular upper member which is to extend across the outer housing opening, includes a front member, and includes first and second side members.

Each of the inner compartments 50 includes a hingedly attached lid and a closure fastener 61,62.

It is further noted that the reference of Colloton discloses using the organizer to organize memorabilia (see paragraph [0002]). Additionally, the reference discloses parents and grandparents recapturing the memories of their children's school years (see paragraph [0005]). The reference points out that school children produce a lot of school documents in any one school year (see paragraph [0006]). Additionally, the reference discloses that the outer housing 10 (or 20) holds a number of insert folders (40), which may be as many folders as, for example, the number of years of schooling of a child (see paragraph [0022]). Furthermore, the reference discloses that the tabs/labels 42 are for labeling each insert folder's contents (see paragraph [0023]). Each folder has an inner pocket (50), and the contents may be such things as school report cards (see paragraph [0024]). Moreover, it is notoriously well known that school report cards are each made predominantly for a single grade.

7) Claims 1, 3 and 5-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Davis (1,487,014). In the reference of Davis, there are provided a rectangular box-like outer housing at carrying case 13, a pivotally

Art Unit: 3728

attached cover member at hinged cover 14, and a plurality of removable inner compartments at packets 5-7. The number of compartments includes at least six compartments since it includes twenty-one such compartments.

The cover member includes front and side member attached to a rectangular upper member, as shown in the drawing figure.

Each of the inner compartments includes its own folded-material lid. The lid includes a closure flap in the front, which apparently may be received behind the front wall of the inner compartment.

8) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9) Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Platte, III (6,672,439), described above, in view of Su (6,431,357), Ray (6,044,879) and Huff (5,014,850). Platte, III shows a closure fastener (56,58) associated with each of the front and side members of the cover member (52). These front and side member protect somewhat against moisture and reduce the likelihood of losing small scraps of paper, and the like (see col. 4, lines 45-53). Although the reference of Platte, III does not disclose that the closure members include a closure apertures in the cover member and closure members on the housing which are to be catchably received in the apertures, the references of Su and Ray suggest that a closure

Art Unit: 3728

fastener for a cover member over the opening of an outer housing may include a closure aperture in the cover member and a closure member to be received therein. It is apparent from Figure 1 of Ray and from Figure 1 of Su, a user of such a container would be able to determine when the closure fastener is engaged. Additionally, the reference of Huff suggests that a closure fastener may include multiple such closure apertures and closure member groups. Accordingly, it would have been obvious in view of the teaching of Su, Ray and Huff to have provided as the closure fasteners 56,58 of Platte, III, closure apertures on the front (54) and side (60,62) cover members and to have provided closure member on the front and side walls of the outer housing base (12), for the purpose of more readily determining when the closure fasteners are in their fastened state.

10) Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis (1,487,014) in view of Kner (2,333,798). Although the reference of Davis does not disclose, for each compartment a fastener including a slit and an engaging member, the reference of Kner at 7 and 23,24 suggests that a folded- material lid for a container may include a means for locking the lid in the closed position. More specifically, the locking means may include a slit in the body of the container and an engaging member/tongue member on the lid of the container for engaging with the slit so as to lock the container in the closed state. Accordingly, it would have been obvious in view of Kner to have provided each of the inner compartments 5-7 of Davis with a slit in the body of the compartment and with an engaging member/tongue member for locking the lid in it closed condition on the compartment.



Art Unit: 3728

11) Claims 9 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Colloton (2003/0116461) in view of Kner (2,333,798).

It is well established that the meaning or form, *per se*, of claimed printed matter/descriptive subject matter may not be given patentable weight when it does not establish a new relationship with respect to the underlying substrate. See MPEP 2112.01(III); See In re Gulack, 703 F.2d. 1381 [217 USPQ 401, 403] (Fed. Cir. 1983), See In re Ngai, 70 USPQ2d 1862,1864 (CAFC 2004). Each of the inner compartments 50 of Colloton includes a label (at 42) attached thereto for identifying the compartments contents. Applicant's claim limitation (see claim 10) calls for the label to identify what grade level of school documents are to be retained in each compartment. Although Colloton of the does not disclose this particular printed information as being on the label 42, the distinction is one only with respect to the meaning of the printed matter and therefore would not have patentable weight.

Regarding Applicant's claim 9, although the reference of Colloton does not disclose, for the fastener (61,62) of each expandable compartment 50, a slit and an engaging member, the reference of Kner at 7, 8, 10 and 23-25 suggests that an expandable container may include positively-restraining outer side flaps (8,10) for maintaining the expandable side walls of the container in a compressed state when the container is closed - for shipment (see pg. 1, col. 2, lines 3-5). And (from Kner) the container may include a locking structure, including an engaging member (7) on the lid, apertures (25) in the side flaps, and a slit (23,24) on the front wall of the body of the container for both locking the container closed and locking the flaps in their position of retaining the expandable side walls in a compressed state. Accordingly, it would have been obvious in view of Kner to have provided each of the expandable compartments 50 of Colloton with side flaps for the purpose



Art Unit: 3728

of retaining the expandable walls of the compartment in a compressed state when the container is closed, such as for shipment, and to have provided a tongue member on the lid, apertures in the side flaps, and a slit in the compartment front wall, for the purpose of locking the flaps in the retaining position when the compartment lid is locked closed over the opening of the compartment.

12) Claims 11, 13 and 15-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Colloton (2003/0116461) in view of Brown (1,610,354) and Williams (3,058,583). Although the reference of Colloton does not disclose a pocket on the front wall of the outer housing 10 as having a transparent pocket, the references of Williams and Brown both suggest that an outer housing may be provided with a holder for a display item, which identifies the contents of the housing in some way. See col. 3, lines 25-31 of Williams. See page 1, lines 5-7 of Brown. With Williams, the holder is provided at 19 within the front portion of the housing, which will permit a view of the display item from the front, as evident from Figure 1. In Brown, the holder is provided at  $f, a^5, m$ . Additionally, Williams suggests that the holder for the display item (e.g. a tabulating card) may be provided for a document file box. Brown, at  $m$ , further suggests that a display holder may include a transparent shield so as to define a transparent pocket for a display item (e.g. a label  $s$ ). This would apparently protect the display item. Accordingly, it would have been obvious in view of Williams and Brown to have provided a display item holder on the outer housing of Colloton for the purpose of identifying the contents of the outer housing. It would have further have been obvious in view of Williams to have provided the holder in the front portion of the housing for the purpose of viewing the display item

Art Unit: 3728

from the front of the housing. Additionally, it would have further been obvious in view of Brown to have provided a transparent shield, thereby defining a transparent pocket, for protecting the display item.

13) Claims 11 and 13-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Platte, III (6,672,439) in view of Brown (1,610,354) and Williams (3,058,583). Although the reference of Platte, III does not disclose a pocket on the front wall 12 of the outer housing 12,14,22,24 as having a transparent pocket, the references of Williams and Brown both suggest that an outer housing may be provided with a holder for a display item, which identifies the contents of the housing in some way. See col. 3, lines 25-31 of Williams. See page 1, lines 5-7 of Brown. With Williams, the holder is provided at 19 within the front portion of the housing, which will permit a view of the display item from the front, as evident from Figure 1. In Brown, the holder is provided at  $f,a^5,m$ . Additionally, Williams suggests that the holder for the display item (e.g. a tabulating card) may be provided for a document file box. Brown, at  $m$ , further suggests that a display holder may include a transparent shield so as to define a transparent pocket for a display item (e.g. a label  $s$ ). This would apparently protect the display item. Accordingly, it would have been obvious in view of Williams and Brown to have provided a display item holder on the outer housing 12,14,22,24 of Platte, III for the purpose of identifying the contents of the outer housing. It would have further have been obvious in view of Williams to have provided the holder in the front portion 12 of the housing for the purpose of viewing the display item from the front of the housing. Additionally, it would have further been obvious in view of Brown to have provided a transparent shield, thereby defining a transparent pocket, for protecting the display item.

Art Unit: 3728

14) Claims 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Platte, III (6,672,439) in view of Su (6,431,357), Ray (6,044,879) and Huff (5,014,850) as applied to claim 2 above, and further in view of Brown (1,610,354) and Williams (3,058,583). Although the reference of Platte, III does not disclose a pocket on the front wall 12 of the outer housing 12,14,22,24 as having a transparent pocket, the references of Williams and Brown both suggest that an outer housing may be provided with a holder for a display item, which identifies the contents of the housing in some way. See col. 3, lines 25-31 of Williams. See page 1, lines 5-7 of Brown. With Williams, the holder is provided at 19 within the front portion of the housing, which will permit a view of the display item from the front, as evident from Figure 1. In Brown, the holder is provided at  $f, a^5, m$ . Additionally, Williams suggests that the holder for the display item (e.g. a tabulating card) may be provided for a document file box. Brown, at  $m$ , further suggests that a display holder may include a transparent shield so as to define a transparent pocket for a display item (e.g. a label  $s$ ). This would apparently protect the display item. Accordingly, it would have further been obvious in view of Williams and Brown to have provided a display item holder on the outer housing 12,14,22,24 of Platte, III (as modified above) for the purpose of identifying the contents of the outer housing. It would have further have been obvious in view of Williams to have provided the holder in the front portion 12 of the housing for the purpose of viewing the display item from the front of the housing. Additionally, it would have further been obvious in view of Brown to have provided a transparent shield, thereby defining a transparent pocket, for protecting the display item.

Art Unit: 3728

15) Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Colloton (2003/0116461) in view of Brown (1,610,354) and Williams (3,058,583) as applied to claim 11 above, and further in view of Kner (2,333,798).

It is well established that the meaning or form, *per se*, of claimed printed matter/descriptive subject matter may not be given patentable weight when it does not establish a new relationship with respect to the underlying substrate. See MPEP 2112.01(III); See In re Gulack, 703 F.2d. 1381 [217 USPQ 401, 403] (Fed. Cir. 1983), See In re Ngai, 70 USPQ2d 1862,1864 (CAFC 2004). Each of the inner compartments 50 of Colloton includes a label (at 42) attached thereto for identifying the compartments contents. Applicant's claim limitation (see claim 18) calls for the label to indicate what grade level of school documents are to be retained in each compartment. Although Colloton of the does not disclose this particular printed information as being on the label 42, the distinction is one only with respect to the meaning of the printed matter and therefore would not have patentable weight.

Additionally, although the reference of Colloton does not disclose, for the fastener (61,62) of each expandable compartment 50, a slit and an engaging member, the reference of Kner at 7, 8, 10 and 23-25 suggests that an expandable container may include positively-restraining outer side flaps (8,10) for maintaining the expandable side walls of the container in a compressed state when the container is closed - for shipment (see pg. 1, col. 2, lines 3-5). And (from Kner) the container may include a locking structure, including an engaging member (7) on the lid, apertures (25) in the side flaps, and a slit (23,24) on the front wall of the body of the container for both locking the container closed and locking the flaps in their position of retaining the expandable side walls in a compressed state. Accordingly,

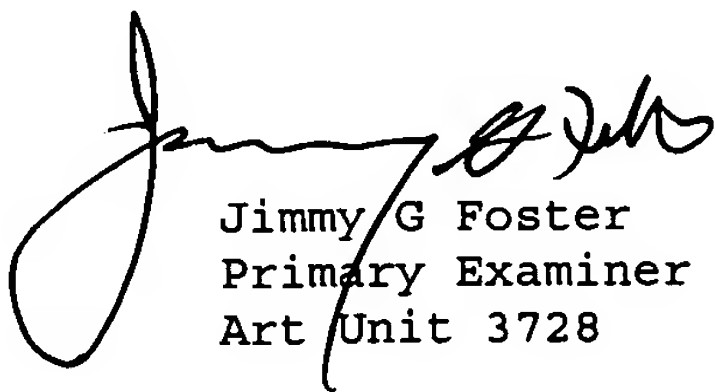
Art Unit: 3728

it would have been obvious in view of Kner to have provided each of the expandable compartments 50 of Colloton with side flaps for the purpose of retaining the expandable walls of the compartment in a compressed state when the container is closed, such as for shipment, and to have provided a tongue member on the lid, apertures in the side flaps, and a slit in the compartment front wall, for the purpose of locking the flaps in the retaining position when the compartment lid is locked closed over the opening of the compartment.

16) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G. Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-0274.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jimmy G Foster  
Primary Examiner  
Art Unit 3728

7/5/05